

# **Policy 1: Pierce County Superior Court Administrative Policy Re: Guardian Ad Litem Registry for Pierce County -- FAMILY LAW PROCEEDINGS**

## **1. Authority**

- 1.1 Adopted by the judges in 1997.
- 1.2 Various revisions.
- 1.3 Current revision adopted by the judges on June 6, 2016.

## **2. Application**

- 2.1 This policy applies to all Guardians ad Litem appointed to family law matters as a Title 26 GAL to investigate parenting matters.

## **3. Purpose**

- 3.1 The purpose of this policy is to detail how individuals are appointed to the GAL Registry, how GALs are authorized and appointed to family law cases, various procedures during the investigation, and how complaints regarding a GAL are handled.

## **4. Policy**

### **4.1 Qualifications: Registry for Guardians Ad Litem in Family Law Proceedings.**

- A. The Pierce County Superior Court Administrator or designee, shall be responsible for maintaining a Registry of those qualified to serve as Guardians ad Litem for parenting matters as provided in **RCW 26.09.220** and **RCW 26.12.175**.
- B. The Registry shall be open for new applications at least once each year. The Judges' Family Law Committee (Committee) shall review applications prior to the creation of the updated Registry. The new Registry shall be created by July 1 of each year.
- C. Applicants to the Pierce County Guardian ad Litem Registry must successfully complete training requirements of the Administrative Office of the Courts (AOC).
  - i. **Attorneys:** Must be a member of the Washington State Bar Association in good standing with five years of family law experience. Other expertise working with children and families in dispute may be considered if applicant has less than the five years family law experience.
  - ii. **Non-Attorneys:** Must have five years' experience working with children and families involved in disputes over parenting issues, dissolution or parentage determinations. A Bachelor's Degree in a related academic discipline is required and a Master's Degree in related academic discipline is preferred.
  - iii. **All Applicants:** Shall be of high moral character, and shall not have any:
    - a) Felony convictions or any convictions involving theft, dishonesty, or moral turpitude.
    - b) Suspension or revocation of professional certification or license.
    - c) Pending investigation or action for either 1 or 2 above.
    - d) Agree to abide by the Guardian ad Litem Code of Conduct, Pierce County Superior Court Administrative Policy, and all applicable statutes and Court Rules.
- D. Persons applying for the Registry for the first time, or after a substantial break in service on the Pierce County Superior Court Registry, shall:
  - i. Complete and file the following documents with the Court Administrator during the open application period as published by Superior Court Administration:
    - a) Application;
    - b) Code of Conduct;

- c) Washington State Patrol Request for Conviction Criminal History Record, with the results provided to the Court Administrator as part of the required application materials.
  - ii. After review by the Committee the applicant will be notified of their provisional placement on the Registry and shall then be eligible for appointment as a Guardian ad Litem.
  - iii. The applicant shall complete their required mentoring and have on file, with Superior Court Administration, the Declaration of Mentoring Completion before they are added to the Registry rotation. This must be done before they may reapply for the following year's Registry. Special authorization to reapply and continue provisional placement in the second year may be granted by the Committee.
  - iv. "Substantial break in service" is defined as two (2) or more consecutive years.
- E. Persons currently on the registry must reapply every three years and annually file the following documents with the Court Administrator during the open application period as published by Superior Court Administration:
- i. Updated Contact information Sheet and Background form as required by RCW 26.12.176 (3) (j);
  - ii. Code of Conduct;
  - iii. Washington State Patrol Request for Conviction Criminal History Record, with the results provided to the Court Administrator as part of the required application materials;
  - iv. Completion of the Application form is required every three years.

#### **4.2 Placement on Registry.**

- A. Once placed on the registry, a person shall remain on the registry for three years unless:
  - i. The person fails to maintain current information required by law or PCLR;
  - ii. The person is removed by his or her own request; or
  - iii. The person is removed pursuant to action by the Superior Court Judges under Section 4.7 below.
- B. All registry members shall attend continuing education as required by Pierce County Superior Court, and annually provide proof of compliance as required by Pierce County Superior Court.
- C. The Court Administrator or designee shall maintain a separate file for each person on the registry. Each file shall include an applicant's Certificate of Completion of training. In addition, the file will include all application materials and all formal complaints or grievances related to an applicant's service as a Guardian ad Litem. The information contained in the files shall be open for public review in the office of Superior Court Administration during normal business hours.
- D. Placement on the registry does not guarantee appointment as a guardian.
- E. In the discretion of a majority of the Pierce County Superior Court Judges, a person may be denied admission to the registry or may be removed from the registry for any reason that places the suitability of the person to act as a Guardian ad Litem in question, including but not limited to, failure to comply with the applicable requirements of this Administrative Policy, the Code of Conduct, State law, and Guardian ad Litem Rules (GALR).
- F. A GAL may request to be placed on "Inactive – Do Not Select" status by sending written, including email, notice to the Superior Court Administration GAL Program Coordinator. Request should include the expected return date. The GAL will not be included in the rotation selection and cannot be appointed to any new cases, even if their name was on a prior selection list.

#### **4.3 Appointment from Registry.**

- A. Request for appointment of a Guardian ad Litem shall be made to a Superior Court Commissioner or Judge, who shall generate an Order for Selection of a Guardian ad Litem. This Order contains randomly selected names from the registry and an apportionment of responsibility for payment of the retainer. Each party shall strike one person from this randomly selected set of names within 3 days. Upon payment of the retainer in full, the Petitioner is responsible for obtaining the Order Appointing Guardian ad Litem and the timely presentation of the Order to the Ex Parte Commissioner for approval and signature. If the judicial officer determines from the financial affidavits that a Staff or County pay Guardian ad Litem is required, the parties will be directed to contact the Family Court Case coordinator for the Staff/County Pay GAL Intake packet. Parties may also properly file, serve and note a motion before the assigned Family Court Judge requesting appointment of a Staff or County Pay GAL. Resources are limited and there is no guarantee a Staff or County pay GAL will be appointed.
- B. In the event the person appointed Guardian ad Litem chooses not to serve, regardless of the reason, the Judicial Officer shall generate a new Order for Selection of a Guardian ad Litem. A new selection list will be provided to the parties if the GAL they selected is in Inactive status at the time appointment order is presented. If an appointment order is filed with an inactive GAL, the Family Court Case Coordinator will send a letter and new selection list to the parties.
- C. If the parties stipulate to recommend the appointment of a particular Guardian ad Litem, who shall be on the registry and "Active" status, but not on the Court generated Selection list, the parties must properly file, serve, and note a motion before the assigned Family Court Judge and must present, prior to appointment, a written stipulation, signed by both parties and their attorneys, and the GAL, which specifies:
  - i. The amount of the retainer charged;
  - ii. The agreement between the parties regarding payment of the retainer and all fees;
  - iii. The hourly rate charged by the recommended Guardian ad Litem; and
  - iv. The statutory reasons for a non-rotational appointment.
- D. Any Judicial Officer who deviates from the statutory rotational order shall make an appropriate written record. The current workload count of registry GALs is to be reviewed prior to deviating from the rotational order.
- E. A stipulation alone is not a basis for a non-rotational appointment if the Judicial Officer finds the statutory factors for a non-rotational appointment are not present.

#### **4.4 GAL Retainers and Additional Fees**

- A. All retainers and additional fees shall be paid into the Clerk of the Court and disbursed pursuant to Court Order.
- B. The initial retainer authorized is the maximum the Guardian ad Litem may charge without additional court review and approval.
- C. Any additional time and fees are to be authorized by the Family Court judge prior to the GAL expending the time and fees. If not pre-authorized, anything over the authorized amount may not be paid.
- D. It is the responsibility of the parties, not the Guardian ad litem, to properly file, serve and note a motion requesting additional fees before the assigned Family Court Judge.

#### **4.5 GAL Attendance at Hearings and Trial**

- A. Parties are required to give the GAL reasonable notice if they want the GAL to attend any court hearings, including trial.

- B. If the GAL retainer is expended and additional time and fees have not been pre authorized, parties must deposit into the Court registry a sum sufficient to cover the cost of such Court appearance
- C. The Guardian ad Litem shall be available to testify if called by a party. Reasonable notice is required and funds deposited in the registry for preparation and time at trial.
- D. Deposition of the GAL is not included in the initial retainer and any party requesting deposition of the GAL is required to deposit funds in the registry for the estimated length prior to the scheduled deposition.

#### **4.6 Request for Review of GAL Investigative File**

- A. Attorneys of record and parties may review the information contained in the GAL file when a legal action is pending. If there is no legal action pending, the parties cannot review the GAL files unless all parties to the case sign releases, or the Court directs the GAL to release the information.
- B. All records of the Guardian ad Litem, including contemporaneously maintained time and expense records, and excluding information that is confidential by law or sealed by court and as further defined by Superior Court Policy, shall timely be made available to the parties and their attorneys for review with (10) court business days written notice, without formal discovery request(s) being made. Copies of the records may be made by the parties and their attorneys under circumstances that assure that the file remains complete, organized and intact.
- C. GAL has the choice to provide the specifically requested copies or may arrange the location for copying. The GAL may charge their hourly rate for the arrangements made for viewing and copying, and reasonable copy costs if copies are provided.
- D. CONFIDENTIAL INFORMATION: "Confidential Information" in a GAL file includes, but is not limited to, the following:
  - i. Any records related to drug/alcohol treatment or assessment (see RCW 70.96A.150 and CFR 42 Part 2);
  - ii. CPS records;
  - iii. Police records;
  - iv. Medical records (see RCW 70.02 et seq.);
  - v. Counseling/therapy and psychologist records (see RCW 18.19.180 and 18.83.100);
  - vi. Domestic violence treatment records (see RCW 70.123.075);
  - vii. Evaluations and assessments performed by third parties other than the Staff GAL;
  - viii. JIS records;
  - ix. Mental health records;
  - x. Documents sealed by the court;
  - xi. Other documents/records protected by state law;
  - xii. LINX records;
  - xiii. Information deemed by the Staff GAL office to pose a risk of physical, sexual or emotional harm to a child, a party to the dispute, or potential witnesses.
- E. An attorney or party requesting release of confidential information in the GAL file must request the assigned Family Court Judge to enter an Order Releasing the Information.
- F. If directed by the Court, the GAL will release the confidential information to the person(s) as ordered by the Court.

#### **4.7 Complaint Procedures.**

- A. Complaints against a Guardian ad Litem during the case.

- i. Complaints shall be by written motion properly served and noted, pursuant to Pierce County Local Rules. The motion shall be made directly to the assigned trial department or the Presiding Judge. Complaints may be made by any party to the case or his or her attorney.
  - ii. The Judge may decide to remove, retain, substitute, or stay the work or appointment of the Guardian ad Litem in the active case. Any such decision shall be documented by a written order. The Grievance Committee shall be notified of any remedial action.
  - iii. Complaints by a party to the case or his or her attorney, or the judicial officer, may be referred for remedial action after the completion of the case, and according to the processes specified in section B below.
- B. Complaints against Guardian ad Litem after the case is complete.
- i. Complaints on cases that are completed shall be referred to and timely addressed by the Grievance Committee appointed, as needed, by Presiding Judge, consisting of three judges, who are not currently serving in Family Court.
  - ii. Complaints shall be delivered to the Court Administrator,
    - a) In writing, based upon personal knowledge, alleging that a Guardian ad Litem:
      1. has violated this policy regarding the requirements for participation on the registry;  
or
      2. has misrepresented his or her qualifications to be on the registry; or
      3. is not suitable to act as a Guardian ad Litem, or raises questions about the conduct of the Guardian ad Litem in a particular case; **OR**
    - b) In any manner, which makes the Court Administrator aware of a reason that would place the suitability of the Guardian ad Litem in question.
  - iii. The Court Administrator will forward the complaint to the Grievance Committee for review. The Grievance Committee shall seek a written response from the Guardian ad Litem. Such response shall be due within 30 days.
  - iv. All matters/materials shall be submitted in writing only. There shall be no live testimony or oral testimony. A copy of the response from the Guardian ad Litem shall be sent to the person initiating the complaint.
  - v. The Guardian ad Litem may be suspended by the Grievance Committee pending resolution of the complaint. The Guardian ad Litem and complaining person shall be notified in writing of any decision to suspend the Guardian ad Litem, pending resolution or otherwise.
  - vi. The Grievance Committee shall forward any recommendation to remove a Guardian ad Litem from the Registry to the Presiding Judge, who shall present the recommendation to the Superior Court Judges at their next meeting.
  - vii. In addition to recommending removal, the Grievance Committee may order remedial measures, including but not limited to, further education, additional training and mentoring, and/or suspension, as a condition to remain on the registry or receive new cases. The Grievance Committee shall regularly make a report of all such remedial actions.
  - viii. Any person filing a complaint against the Guardian ad Litem shall be notified in writing of the final decision of the Superior Court Judges within 60 days of the response to the complaint being received.
- C. Information regarding suitability to serve as a Guardian ad Litem, which does not relate to a particular case, may be directed to the Grievance Committee. The source of the information and its content may be communicated to the Guardian ad Litem for a written response.

D. Administrative Office of the Court Reporting Requirements. As required, the Administrative Office of the Court shall be timely notified of the names on the Guardian ad Litem registry. The Administrative Office of the Court shall be notified immediately of the name of any Guardian ad Litem removed from the rotational registry as a result of a decision of the Superior Court Judges.

[Amended effective June 6, 2016]